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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

## PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name REMMERT SHIRLEY V.  
(Last) (First) (Initial)Prisoner Number 990 BERKELEY AVENUEInstitutional Address MENLO PARK, CA 94025

FILED

MAR 27 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAUNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1644

CRB

SHIRLEY V. REMMERT

(Enter the full name of plaintiff in this action.)

CV

08

80033MISC

(PR)  
MHP

vs.

Case No. \_\_\_\_\_  
(To be provided by the clerk of court)SHERIFF GREG MUNKSSTATE OF CALIFORNIAATTORNEY GENERALJERRY BROWN

(Enter the full name of respondent(s) or jailor in this action)

CASE NO. SM 351187

Read Comments Carefully Before Filing InWhen and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

**S159655**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re SHIRLEY V. REMMERT on Habeas Corpus

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The application for stay and petition for writ of habeas corpus are denied.

SUPREME COURT  
FILED

FEB 13 2008

Frederick K. Ohlrich Clerk

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Deputy

GEORGE  
\_\_\_\_\_  
Chief Justice

### Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

### **A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE**

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda

County Superior Court, Oakland):

SAN MATEO COUNTY

SUPERIOR COURT

REDWOOD CITY

**Court**

### Location

(b) Case number, if known SM 351187

(c) Date and terms of sentence JUNE 27, 2007 3 YEARS PROBATION  
6 MONTHS JAIL

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No       

Where? HOME

Name of Institution:

Address: 990 BERKELEY AVE, MENLO PARK, CA 94025

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

VIOLATIONS OF PC sec. 166(A)(4) +

PROBATION VIOLATION in CASE NO. SM340531A.

3. Did you have any of the following?

Arraignment: Yes X No         
 Preliminary Hearing: Yes X No         
 Motion to Suppress: Yes        No X

4. How did you plead?

Guilty        Not Guilty X Nolo Contendere       

Any other plea (specify)       

5. If you went to trial, what kind of trial did you have?

Jury        Judge alone X Judge alone on a transcript       

6. Did you testify at your trial? Yes X No       

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes X No         
 (b) Preliminary hearing Yes X No         
 (c) Time of plea Yes X No         
 (d) Trial Yes        No X  
 (e) Sentencing Yes X No         
 (f) Appeal Yes X No         
 (g) Other post-conviction proceeding Yes        No X

8. Did you appeal your conviction? Yes        No       

(a) If you did, to what court(s) did you appeal?

Court of Appeal / SUPERIOR COURT Yes X No       

Year: 2008 Result: DO NOT KNOW

Supreme Court of California Yes        No       

Year:        Result:       

Any other court Yes        No       

Year:        Result:       

(b) If you appealed, were the grounds the same as those that you are raising in this

petition?

Yes XNo     

(c) Was there an opinion?

Yes     No     

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes     No     

If you did, give the name of the court and the result:

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9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal?

Yes XNo     

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: U. S. DISTRICT COURT

Type of Proceeding: PETITION FOR WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

a. "VICTIM" HAS CAPACITY-RAILROADED INTO CONSERVATION

b. PHYSICAL & MENTAL ABUSE BY COUNTY

c. ALLEGATIONS IN PETITION FOR WRIT OF HABEAS

d. FOR CASE SM 340531A - JUDICIAL NOTICE REQUESTED

Result: DISMISSED Date of Result: 8-02-07

II. Name of Court: STATE OF CALIF APPEALS

Type of Proceeding: PETITION FOR WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

4

- a. ALL OF THE ABOVE & ALL ALLEGATIONS IN  
 b. PETITION FOR WRIT OF HABEAS CORPUS FOR  
 c. CASE SM 340531A, WHICH ACCOMPANIES  
 d. THIS PETITION - JUDICIAL NOTICE REQUESTED.

Result: DENIED Date of Result: 11-14-07

III. Name of Court: CALIF STATE SUPREME COURT

Type of Proceeding: PETITION FOR WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

- a. ALL OF THE ABOVE, ETC  
 b. JUDICIAL NOTICE REQUESTED OF THE  
 c. ABOVE RELATED PETITION  
 d. \_\_\_\_\_

Result: DENIED Date of Result: 2-13-08

IV. Name of Court: \_\_\_\_\_

Type of Proceeding: \_\_\_\_\_

Grounds raised (Be brief but specific):

- a. \_\_\_\_\_  
 b. \_\_\_\_\_  
 c. \_\_\_\_\_  
 d. \_\_\_\_\_

Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes X No \_\_\_\_\_

Name and location of court: SUPERIOR COURT OF SAN MATEO  
COUNTY, 400 COUNTY CENTER, REDWOOD CITY  
CA 94063

#### B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you



1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One:

6  
7 Supporting Facts:

*Continued on p. 66*

8  
9  
10  
11 Claim Two:

12  
13 Supporting Facts:

14  
15  
16  
17 Claim Three:

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19 Supporting Facts:

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22  
23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why:

25 *Continued*

26  
27  
28 *6a*

1 **Claim One: Statements Purported to be Facts are Not True**

2 1. The "victim", my daughter, who I believe has capacity, was  
3  
4 railroaded into a conservatorship by county employees and others. They  
5  
6 have lied about my mother, my daughter, and me in order to commit their  
7  
8 crimes of physical and mental abuse against us.

9 **Supporting Facts**

10 Judicially noticed facts in Petition for Writ of Habeas Corpus for Case  
11  
12 No. SM340531A filed together with this petition.

13 **Claim Two: I did not receive due process.**

14 **Supporting Facts**

15 Pretrial

16  
17 Release on my own recognizance was prejudicially denied me. I was  
18  
19 sixty years old and in an on-going, three-year litigation over a title dispute  
20  
21 at the time that I asked for release.

22 Trial

23 1. The judge, Hon. Elizabeth Lee, did not allow me to argue necessity  
24  
25 and justification, even though my daughter was being physically injured and  
26  
27 mentally harmed by the county workers on a daily basis.

28 Nor would she allow me to argue that the conservatorship order and



1 the restraining orders are illegal.

2 2. The county's witness against me was my daughter, forced to testify  
3 against me, as she was forcibly drugged with mind-altering drugs on the day  
4 of her testimony.  
5

6 3. I was unable to adequately defend myself because I was in jail.  
7

8 a. I had no access to my evidence, that my daughter had escaped  
9 on her own without my help three days after the incident of April 29, 2007  
10 and wrote a letter of complaint to the Governor of the state and to Sheriff  
11 Munks about her false imprisonment.  
12

13 b. The jail did not provide the allotted number of Inmate Welfare  
14 stamped envelopes and writing paper under correctional facilities  
15 regulations.  
16

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18  
19 Sentencing

20 4. I did not receive a hearing to challenge the probation report.  
21

22 5. I did not receive a hearing with an attorney to represent me against  
23 the District Attorney's claim that I need mental health treatment.  
24

25 6. I request that the Court grant judicial notice of the petition for writ  
26 of habeas corpus for Case No. SM340531A, which accompanies this  
27 petition and forms a basis for all of the claims herein.  
28

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One:

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7 Supporting Facts:

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11 Claim Two:

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13 Supporting Facts:

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17 Claim Three:

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19 Supporting Facts:

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22  
23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why. (#4 & #5 OF CLAIM TWO ABOVE).

25 I LEARNED FROM MY PRIVATE DEFENDER'S OPENING BRIEF  
26 OF MY APPEAL FOR THIS CASE IN THE SUPERIOR COURT  
27 THAT HEARINGS RE THE PROBATION REPORT AND MENTAL  
28 HEALTH ISSUES MUST BE HELD BEFORE SENTENCING.

Ld

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 LARRY WOLLERSHEIM V. CHURCH OF SCIENTOLOGY OF CALIF.  
5 NO. B023193, COURT OF APPEAL, SECOND DISTRICT,  
6 DIVISION 7, CALIFORNIA, JULY 18, 1989.

7 Do you have an attorney for this petition? Yes \_\_\_\_\_ No X

8 If you do, give the name and address of your attorney:  
9 \_\_\_\_\_

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on February 17, 2008 Shirley V. Remmert  
14 Date Signature of Petitioner

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20 (Rev. 6/02)

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